

IN RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
(2506 Holly Beach Avenue)		
15 th Election District	*	OF ADMINISTRATIVE
7 th Council District		
David Collignon	*	HEARINGS FOR
<i>Legal Owner</i>		
David & Kimberly Collignon	*	BALTIMORE COUNTY
<i>Contract Purchasers</i>		
Petitioners	*	CASE NO. 2016-0196-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of David Collignon, legal owner of the subject property and David & Kimberly Collignon, contract purchasers (“Petitioners”). Petitioners originally requested Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1A04.3.B.2.b to permit a proposed replacement dwelling to have a street side setback from the centerline of a minor collector road as close as 30 ft. and side yard setbacks of 15 ft. and 22.5 ft. in lieu of the required 150 ft., 50 ft., and 50 ft., respectively. A revised site plan was submitted at the hearing (Exhibit 2) which increases by 11 feet the proposed street side setback. Petitioners explained that after discussions with their neighbors at 2502 Holly Beach Road, they agreed to reduce the size of the attached garage shown on the site plan. The neighbors were concerned the structure as originally proposed would block the view from the rear of their home. The revised site plan indicates the garage was reduced in length by 12 feet, and Petitioners indicated their neighbors had no objection to the amended request.

There were no protestants or interested citizens in attendance at the hearing. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and Department of

Environmental Protection and Sustainability (DEPS). Conditions will be included in the Order below to address those comments.

The subject property is 22,263 square feet and zoned RC 5. The property is improved with a modest single-family dwelling (SFD) used by Petitioners as a vacation home. Petitioners propose to raze the structure and in its place construct a new SFD.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioners have met this test. The waterfront lot is narrow and deep and is therefore unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to build the proposed replacement dwelling. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare. This is demonstrated by the lack of County and/or community opposition.

THEREFORE, IT IS ORDERED, this 6th day of **May, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (“B.C.Z.R.”) §1A04.3.B.2.b to permit a proposed replacement dwelling to have a street side setback from the centerline of a minor collector road as close as 41 ft. and side yard setbacks of 15 ft. and 22.5 ft. in lieu of the required 150 ft., 50 ft., and 50 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioners must comply with the Critical Area Regulations.
3. Prior to issuance of permits Petitioners must submit such materials as are necessary to enable the DOP to make a positive recommendation that the proposal complies with the RC 5 performance standards.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB/sln